IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 369 OF 2007

SMT. GEETA A. FERNANDES ... Petitioner
Versus
THE COMMISSIONER OF LABOUR AND EMPLOYMENT AND ANR., ... Respondents

Mr. D. Pangam, Advocate for the petitioner.
Mr. S. R. Rivonkar, Govt. Advocate, for the respondent No. 1.

Coram:- R.M.S. KHANDEPARKAR &
R. S. MOHITE, JJ.

Date:- 22nd August, 2007

P.C.

Heard. The petitioner challenged the order dated 8/12/2006 passed by office of Commissioner rejecting the application filed by the petitioner U/s.33(e)(1) of the Industrial Disputes Act, 1947. It is the contention on behalf of the petitioner that merely because the petitioner had made similar claim in relation to the earlier period, the application for subsequent period on the basis of settlement arrived between the management and employees on 27.3.95, could not have been rejected by the respondent.

In our considered opinion, once the petitioner had approached the Labour Court, claiming certain amount in terms of settlement dated 27.3.95 and the said matter is pending before the Labour Court for proper adjudication, it will not be appropriate for the concerned authorities to entertain the application for the subsequent period unless the adjudication by the Labour Court on the entitlement of the petitioner to claim amount in terms of settlement dated 27.3.95 has been finally adjudicated. It will however, not preclude the petitioner from approaching the Labour Court

seeking amendment to the claim in the proceeding already pending before the Labour Court in relation to earlier period and to include subsequent period which was the subject matter of the application dated 13th March 2006 before the respondent. In case such an application is filed by the petitioner before the Labour Court, same will have to be considered in accordance with the provisions of law, bearing in mind that for the earlier period, the petitioner was pursuing the remedy before the concerned authorities and further before this Court. With these observations, petition is rejected. It is made clear that we have not expressed any opinion on any of the points sought to be raised in the petition.

R.M.S. KHANDEPARKAR, J.

R. S. MOHITE, J.

SMA